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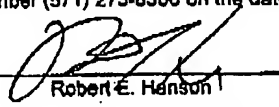
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RE: Serial No. 10/618,101

NUMBER OF PAGES WITH COVER PAGE: 4 Originals Will Not Follow

Message:

Submitted for filing in Serial No. 10/618,101, please find a Response to Restriction Requirement Dated February 9, 2006.

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MAR 09 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Joseph R. Byrum, et al.

Serial No.: 10/618,101

Filed: July 11, 2003

For: HIGH YIELDING SOYBEAN PLANTS
WITH INCREASED SEED PROTEIN
PLUS OIL

Group Art Unit: 1638

Examiner: Cynthia E. Collins

Atty. Dkt. No.: MSUT:008US

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Robert E. Hanson

RESPONSE TO RESTRICTION REQUIREMENT DATED FEBRUARY 9, 2006

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Commissioner:

This paper is submitted in response to the Restriction Requirement dated February 9, 2006 for which the date for response is March 11, 2006.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct said fees from Fulbright & Jaworski L.L.P. Account No.: 50-1212/MSUT:008US.

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In response to the restriction requirement which the Examiner imposed, Applicants elect, with traverse, to prosecute claims 1-32, *i.e.*, the Group I claims.

Applicants respectfully traverse the restriction between elected Group I and remaining Groups II-VIII on the basis that there would be no additional burden in examining the Group II-VIII claims together with the Group I claims. All of the Group II-VIII claims (34-40) and claim 33 specifically refer back to and incorporate the limitations of claim 1. For example, claim 33 is directed to:

33. A method of producing food or feed comprising:
- (a) obtaining the *plant of claim 1*;
 - (b) cultivating said plant to maturity; and
 - (c) preparing food or feed from said plant.
- (emphasis added).

Claim 33 therefore requires a plant according to claim 1 and includes the limitations of claim 1 as the point of novelty. Upon a searching and determination that the plant of claim 1 is novel and nonobvious, *no* additional search would be required to examine claim 33 because it would by definition also be novel and nonobvious. The same is true of claims 34-39, which each depend from claim 33 and define the food or feed in claim 33 as being protein concentrate, protein isolate, meal, oil, flour or soybean hulls. Again, these claims include the limitations of claim 33 and would necessarily be novel and non-obvious upon a finding that claim 1 is novel and nonobvious without the need for any search. Finally, the foregoing is also true of claim 40, which like claim 33 requires the use of the plant of claim 1. Again, no separate search would be required to examine claim 40.

There is therefore *no* additional burden in examining all of the pending claims as no separate search of the Group II-VIII claims is required. The M.P.E.P. requires that "[i]f the search and examination of an entire application can be made without serious burden, the

examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." (emphasis added) M.P.E.P. §803. The relevant standard in the M.P.E.P. therefore requires a *serious* burden on the examiner in order to support a proper restriction. Here, the relation among the claims here eliminates any additional burden. Examination of all of the pending claims is thus respectfully requested.

The Examiner is invited to contact the undersigned attorney at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: March 9, 2006